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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/668,410

09/23/2003

Scott R. Culler

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05/23/2006

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EXAMINER

MARCHESCHI, MICHAEL A

ART UNIT

PAPER NUMBER

1755

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,410

Applicant(s)

CULLER ET AL.

Examiner

Michael A. Marcheschi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-14 and 16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6, 8-14 and 16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 18 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/30/06, 5/5/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The amendments to the specification, as filed on 5/16/06, have not been entered because the amendments define paragraph numbers to be replaced, however, the office copy of the specification does not contain any paragraph numbers. In view of this, the specification needs to be amended in accordance with the last office which is incorporated herein by reference. It appears that applicants are referring to the paragraph numbers of the published specification, however, no paragraph numbering is used in the unpublished specification and it is the latter specification (prosecution specification) that the amendments need to be defined for.

In view of the amendments to the specification not being entered, the drawings are objected to for the same reasons set forth in the previous office action which are incorporated herein by reference.

Claims 1-6, 8-14 and 16 are rejected under 35 U.S.C. 103(a) as obvious over Hoopman (097) for the same reasons set forth in the previous office action which are incorporated herein by reference.

Claims 1-6, 8-14 and 16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over all the claims of copending

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Application No. 10/668,799 alone or in view of Hoopman (097) for the same reasons set forth in the previous office action which are incorporated herein by reference.

Applicant's arguments filed 5/16/06 have been fully considered but they are not persuasive.

Applicants argue that Hoopman does not disclose or suggest an abrasive article, wherein the sum of the offset vectors is not zero. The examiner completely responded to this aspect, said comments being incorporated herein by reference. Applicants argue that the sum of the offset vectors being zero is a statistical fact given enough numbers. This statistical argument does not take the place of clear tangible evidence over what the reference teaches. What is enough numbers? It might be presumed that an infinite number of values, when summed, might be zero, however, in the articles of the reference, only a finite number of composites are present. With a finite number of composites, it is unlikely that the sum will be zero, especially since the reference composites are random. Assuming *arguendo*, it is also unlikely that sum of the offset vectors will be exactly zero (i.e. when the sum is taken in view any decimal place).

A random distribution does not necessarily mean that the sum is zero. Applicants provide no clear evidence that the sum of offset vectors of the reference (finite in number) will be zero: Applicants appear to admit that the offset vectors can be a positive or negative value, thus, if they are positive or negative or a combination thereof, how will sum of the offset vectors be zero? Applicants provide no evidence that the composites of the reference have an offset vector summed of zero.

Applicants state that the examiners logic on page 11 of the previous office action is incorrect (see page 14 of the instant amendment). The examiner acknowledges this and withdraws this statement from the last office action.

In summary, applicants provide no clear evidence that the offset vector sum of the reference composites will be exactly zero and/or provide no evidence of criticality.

With respect to the ODP rejection, absent any arguments or a TD, this rejection is upheld.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

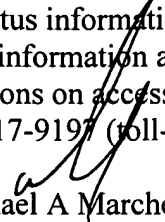
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A. Marcheschi whose telephone number is (571) 272-1374. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael A Marcheschi
Primary Examiner
Art Unit 1755

5/19/06
MM